

INITIAL STATEMENT OF REASONS AND PUBLIC REPORT
DEPARTMENT OF PESTICIDE REGULATION

Title 3. California Code of Regulations
Amend Section 6550
Pertaining to Minimum Qualifications for New Pest Control Adviser Applicants

This is the Initial Statement of Reasons required by Government Code section 11346.2 and the public report specified in section 6110 of Title 3, California Code of Regulations (3 CCR). Section 6110 meets the requirement of Title 14 CCR section 15252 and Public Resources Code section 21080.5 pertaining to state regulatory programs certified under the California Environmental Quality Act.

SUMMARY OF PROPOSED ACTION/PESTICIDE REGULATORY PROGRAM
ACTIVITIES AFFECTED

The Department of Pesticide Regulation (DPR) proposes to amend 3 CCR section 6550. In summary, the proposed action requires any person who is applying for an agricultural pest control adviser (PCA) license for the first time to meet the educational and/or a combination of education and work experience minimum qualifications (MQs) that have been identified to demonstrate competency to make pest control decisions.

SPECIFIC PURPOSE AND FACTUAL BASIS

DPR protects human health and the environment by regulating pesticide sales and use and by fostering reduced-risk pest management. DPR's strict oversight begins with product evaluation and registration; and continues through statewide licensing of commercial and private applicators, pest control businesses, and consultants; environmental monitoring; and residue testing of fresh produce. This statutory scheme is set forth primarily in Divisions 6 and 7 of the Food and Agricultural Code (FAC).

DPR's Licensing and Certification Program administers examinations and certifies or licenses restricted-material pesticide applicators, pest control dealer designated agents, pest control aircraft pilots, pest control businesses, pest control dealers, and agricultural PCAs.

FAC section 11410 defines an agricultural PCA as any person who offers a recommendation on any agricultural use, who holds himself or herself forth as an authority on any agricultural use, or who solicits services or sales for any agricultural use.

FAC section 12001 states, "No person shall act, or offer to act, as an agricultural pest control adviser without first having secured an agricultural pest control adviser license from the director. Officials of federal, state, and county departments of agriculture and the University of California personnel engaged in official duties relating to agricultural use are exempt from this section if any recommendation by any of these persons as to a specific application on a specific parcel is made in writing. Officials of districts formed pursuant to Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code are exempt from this section until July 1,

1995, if any recommendation by any of these persons as to a specific application on a specific parcel is in writing."

CCR section 6556 requires that a pesticide recommendation for agricultural use include, among other elements, a certification that alternatives and mitigation measures that would substantially lessen any significant adverse impact on the environment have been considered and, if feasible, adopted. To provide sound pest control recommendations, the PCA must be knowledgeable in the fundamentals of integrated pest management that encompass crop health, pest management systems and methods, crop production systems, and the physical and biological sciences.

CCR section 6550 requires any person who is applying for an agricultural PCA license for the first time to meet either specific educational and/or a combination of education and work experience MQs to demonstrate competency to make pest control decisions.

The MQs for PCA applicants have been discussed and addressed by the Agricultural Pest Control Advisory Committee (APCAC) on an ongoing basis since 1994. APCAC, established by statute in FAC, advises the Director in all matters concerning the licensing, certification, and regulation of persons and firms providing pest control advice and services in California.

In 1994, the Infrastructure Task Force of the Director's Pest Management Advisory Committee (PMAC) reviewed and recommended changes to upgrade the MQs for PCA license applicants. The MQs at that time were broad and required either a bachelor's degree in the agricultural or biological sciences or pest management, or a combination of education and work experience. The APCAC agreed with the PMAC's proposed amendments to increase the minimum core-course requirements and more clearly specify the core-course requirements in topic areas of physical and biological sciences, crop health, pest management systems and methods, and crop production systems.

The current MQs for PCAs were revised to reflect the above changes and became effective January 1, 2003. The regulation adopting these changes was amended in May 1999. A three-year grace period was allowed in order to provide students enrolled at that time to complete their course work that met the then current MQs.

Throughout 2003, DPR analyzed the applications it received from new agricultural PCA license applicants to evaluate whether they met the new MQs and thus qualified to take the examination. The results indicated that well over 50 percent of the new applicants failed to meet the MQs and that the major area of deficiency was in the pest management methods and systems core area. The results were presented to the APCAC in October 2003. Since this was the first year with the new educational requirements, the APCAC advised DPR to wait before recommending changes to the MQs.

Although somewhat improved, the rate by which new applicants do not qualify under the MQs has remained steady at 30 percent through October 2005. In evaluating the transcripts for new

applicants, DPR has determined that the reason for not meeting the educational MQs is generally a deficiency of required units in the category of pest management systems and methods. These applicants are generally one or two courses short under the current MQs, but would qualify under the proposed broader categories.

In mid-2003, APCAC members completed an evaluation of courses submitted to DPR by colleges and universities to determine which core course areas they satisfied. Their review concluded that there were very few courses in the area of pest management methods and Systems. In 2004, the APCAC established a subcommittee to determine if the numbers and types of courses, and their designation within specific categories, provided appropriate and adequate educational offerings to meet the revised MQs. The primary goal of this project was to maintain the high degree of knowledge, skills, and expertise to meet the PCA requirements.

After an exhaustive review and evaluation of courses, the subcommittee proposed broadening the types of courses (senior projects, master's thesis, seminars, etc.) that would fulfill the MQs. The subcommittee also recommended changes to the unit requirements in the categories in the core-course topic area of crop health/pest management systems and methods/production systems. A minimum grade-point average (GPA) of 2.0 in the core courses was recommended. Work as a certified crop adviser or assistant was added in the alternate pattern of combining education and work experience.

The subcommittee's findings were finalized in April 2005 and presented to the APCAC on July 19, 2005. The APCAC approved the recommendations and requested that DPR move forward with a regulatory package to implement the recommended changes to the MQs for new PCA license applicants.

DPR proposes to amend section 6550 that deals with the MQs as recommended and approved by the APCAC. Proposed section 6550 would provide more flexibility in the education and experience MQs, while still demanding a high level of skill and expertise of first-time PCA applicants. In addition to eliminating the chart descriptions, and nonsubstantive wording changes to improve clarity, the following amendments relative to the education and/or experience requirements to meet the MQs for entrance into the PCA examination are being proposed.

Proposed subsection 6550(a)(2)(G) clarifies that an authorized licensee who works for a registered structural pest control business is either a licensed structural pest control operator or a field representative.

Subsection 6550(a)(2)(I) is being added to acknowledge that work experience as an assistant to, or as a, certified crop adviser provides adequate knowledge and expertise and is a viable path for admittance to the PCA examination. There is a national program that certifies crop advisers. Many states have recognized that individuals who have received this certification have adequate knowledge and experience to make pest control recommendations (adviser). Adding this area of work experience brings California in line with the national program and the licensing requirements of other states.

Proposed subsection 6550(b) would broaden the types of core courses that would fulfill the MQs. Course titles such as senior project, thesis, independent study, internship, dissertation, work experience, or enterprise project could be counted toward course units for crop health, pest management systems and methods, or production systems. The required course units in topic areas of crop health, pest management systems and methods, or production systems would change from 12 semester units (18 quarter units) to 9 semester units (13.5 quarter units), 9 semester units (13.5 quarter units) to 6 semester units (9 quarter units), and 9 semester units (13.5 quarter units) to 6 semester units (9 quarter units), respectively. Additionally, this proposal will allow the applicant to take an additional 9 semester units (13.5 quarter units) in any of these topic areas. Again, this will allow applicants to complete the MQ requirements in the areas where there generally was a deficiency of required core-course units.

In proposed subsections 6550(b)(2)(A), (b)(3)(B), and (b)(4)(B), course titles such as special project, thesis, independent study, internship, and dissertation are generally conceived between student and professor and are not described in the course catalog. Therefore, documentation including description and justification for the course category and principle area of study within each category must be submitted to DPR. Only 3 semester or 4.5 quarter units within each core course area of study will be accepted.

Proposed subsection 6550(b)(3)(A) allows one year of full-time related work experience listed in 6550(a)(2)(A-I) to be used as 3 semester or 4.5 quarter units for pest management systems and methods, provided the work experience was not counted toward the 24 months of technical experience specified in 6550(a)(2) or towards work experience for production systems. Proposed subsection 6550(b)(4)(A) also allows one year of full-time related work experience allowed in subsection 6550(a)(2)(H) to be used as 3 semester or 4.5 quarter units for production systems, provided the work experience was not counted toward the 24 months of technical experience specified in 6550(a)(2) or towards work experience for pest management systems and methods. Documentation of job duties, employment records, a statement from an employer, or other proof must be submitted to DPR.

Subsection 6550(b) adds the maintenance of a 2.0 GPA for all core courses. A 2.0 GPA is the universally accepted competency standard in U.S. educational settings. This proposed change aligns with the minimum requirements that a student must maintain at least a 2.0 GPA in his/her major in order to complete and receive a college or university degree. Although a 2.0 GPA will demonstrate an individual's general competency in the core areas of study, the candidate will still have to pass the PCA examination as required under the Department's delegation of authority from the U.S. Environmental Protection Agency to license and certify agricultural PCAs in California.

Subsection 6550(c) is being amended to specify that the Agricultural Pest Control Adviser Minimum Qualifications for New License Applicants form (PR-PML-085, Rev. 12/06), hereby incorporated by reference, must be submitted with the application for a new PCA license. In addition, subsection 6550(c) is being amended to reaffirm the documentation requirements for those special project classes and work experience in subsections 6550(b)(1) through (b)(4).

This regulation directly supports environmental concerns and the need to protect our citizens. This meets not only the requirements of section 6556, but also the overall objective of FAC section 11501(f) which directs DPR to encourage the development and implementation of pest management systems, stressing application of biological and cultural pest control techniques with selective pesticides, when necessary, to achieve acceptable levels of control with the least possible harm to nontarget organisms and the environment. This will ensure that those individuals making pest control decisions do so with full knowledge of state and federal laws and regulations, and utilize best pest management practices in the control of pests.

In summary, DPR and the APCAC recognize that there are areas of experience and education that are excluded under the current MQs, but in actuality provide a high level of expertise that meets the overall objectives of FAC section 11501(f) as noted above. The proposed changes address these issues. No changes to the examination process or examination itself will result from the proposed regulatory change.

CONSULTATION WITH OTHER AGENCIES

DPR, the county agricultural commissioners, representatives of the California Association of Pest Control Advisers, and the APCAC have reviewed and support the proposed amendments to the MQs for new PCA applicants in section 6550.

Copies of the APCAC minutes are contained in the rulemaking file.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION [GOVERNMENT CODE SECTION 11346.2(B)]

DPR has not identified any feasible alternatives to the proposed regulatory action that would lessen any possible adverse economic impacts, including any impacts on small businesses, and invites the submission of suggested alternatives.

As discussed in the Notice of Proposed Regulatory Action that was published in the *California Regulatory Notice Register*, DPR has determined that the adoption of this regulation will not have a significant cost impact on businesses.

IDENTIFICATION OF ANY SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECT THAT CAN REASONABLY BE EXPECTED TO OCCUR FROM IMPLEMENTING THE PROPOSAL

The proposed action would amend section 6550 to broaden the types of courses (senior projects, master's thesis, seminars, etc.) that will be acceptable to meet the agricultural PCA license MQs. The change does not weaken the MQs for agricultural PCAs to maintain the high degree of knowledge, skills, and expertise to meet the statutory and regulatory requirements for PCAs.

DPR's review of the proposed action showed that no significant adverse environment effect to California's air, soil, water, plants, fish, or wildlife can reasonably be expected to occur from implementing the proposal. Therefore, no alternatives or mitigation measures are proposed to lessen any significant adverse effects on the environment.

EFFORTS TO AVOID UNNECESSARY DUPLICATION WITH FEDERAL REGULATIONS

The proposed regulatory action does not duplicate or conflict with the Code of Federal Regulations.

DOCUMENTS RELIED UPON

- Agricultural Pest Control Advisory Committee Meeting Minutes dated July 9, 2003; October 15, 2003; April 7, 2004; July 14, 2004, October 20, 2004; April 12, 2005; and July 19, 2005.